SUPPLEMENTAL EXAMINER'S AMENDMENT

1.   The April 03, 2009, Examiner's Amendment is hereby vacated.

2.   An examiner's amendment to the record appears below. Should the changes

and/or additions be unacceptable to applicant, an amendment may be filed as provided

by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be

submitted no later than the payment of the issue fee.

4.   Authorization for this examiner's amendment was given in a telephone interview

with Daniel S. Glueck (Reg. No. 37,838) on May 8, 2009.

5.   The application has been amended as follows:

In the claims

     1.   (Cancelled)

     2.   (Cancelled)

     3.   (Cancelled)

     4.   (Cancelled)

     5.   (Cancelled)

     6.   (Cancelled)

     7.   (Cancelled)

     8.   (Cancelled)

9.   (Cancelled)

10.   (Cancelled)

11.   (Cancelled)

12.   (Cancelled)

13.   (Cancelled)

14.   (Cancelled)

15.   (Cancelled)

16.   (Cancelled)

17.   (Currently Amended) A gateway for use in a system wherein a first

apparatus, said gateway, and a second apparatus are in a TCP/IP network,

wherein the ~~source~~ first apparatus, said gateway, and the second apparatus

have different IP addresses, said gateway comprising:

        a packet receiving unit that is configured to receive a packet addressed at

the IP level from the first apparatus to the second apparatus; and

        a service plan determining unit that is configured to determine a level of

service subscribed to by a user of the first apparatus;

        a throttling unit that is configured to throttle the user of the first apparatus

by (a) modifying the value of the TCP window size field of the packet so as to

change the value from a value present in that field in the packet received by said

packet receiving unit in accordance with (1) the level of service subscribed to by

the user of the first apparatus and (2) bandwidth usage associated with the user

of the first apparatus, and (b) sending the so modified packet to the second

apparatus so that the second apparatus receives the so modified packet that

has, in its TCP window size field, a value different from the value present in that

field in the packet received by said packet receiving unit,

wherein the packet received by said packet receiving unit has, as its

source IP address, the IP address of the first apparatus, and has, as its

destination IP address, the IP address of the second apparatus, ~~and~~

wherein the modified packet sent to the second apparatus by said

throttling unit has, as its source IP address, the IP address of the first apparatus,

and has, as its destination IP address, the IP address of the second apparatus,

and

<u>wherein a memory is included in said gateway</u>.

18.   (Previously Presented) A gateway according to Claim 17, wherein the

bandwidth usage is measured as an amount of data per unit of time.

19.   (Cancelled)

20.   (Cancelled)

21.   (Previously Presented) A gateway according to Claim 17, wherein the

bandwidth usage is expressed as an average throughput.

22.   (Previously Presented) A gateway according to Claim 17, wherein the

bandwidth usage is determined using a leaky bucket analysis.

23.   (Cancelled)

24.   (Cancelled)

25.   (Cancelled)

26.   (Previously Presented) An apparatus according to Claim 17, wherein said

throttling unit compares bandwidth usage to a threshold.

27.   (Previously Presented) A method for use in a system wherein a first

apparatus, a gateway, and a second apparatus are in a TCP/IP network, each of

the first apparatus, the gateway, and the second apparatus having different IP

addresses, said method comprising:

intercepting by the gateway of a packet addressed at the IP level from the

first apparatus to the second apparatus; and

determining a level of service subscribed to by a user of the first

apparatus;

determining whether or not to throttle a user of the first apparatus in

accordance with (a) the level of service and (b) bandwidth usage by the user;

throttling by the gateway of the user of the first apparatus in accordance

with a determination in said determining step that the user of the first apparatus

should be throttled, said throttling comprising (1) modifying, by the gateway, of

the value of the TCP window size field of the packet received in said intercepting

step so as to change the value from a value present in that field in the packet

received in said intercepting step and (2) sending the so modified packet to the

second apparatus so that the second apparatus receives the so modified packet

that has, in its TCP window size field, a value different from the value present in

that field in the packet received in said intercepting step,

wherein the packet received in said intercepting step has, as its source IP

address, the IP address of the first apparatus, and has, as its destination IP

address, the IP address of the second apparatus, and

wherein the modified packet sent to the second apparatus has, as its

source IP address, the IP address of the first apparatus, and has, as its

destination IP address, the IP address of the second apparatus.

28.   (Previously Presented) A method according to Claim 27, wherein the

bandwidth usage is measured as an amount of data per unit of time.

29.   (Cancelled)

30.   (Cancelled)

31.   (Previously Presented) A method according to Claim 27, wherein the

bandwidth usage is expressed as an average throughput.

32.   (Previously Presented) A method according to Claim 27, wherein the

bandwidth usage is determined using a leaky bucket analysis.

33.   (Cancelled)

34.   (Cancelled)

35.   (Cancelled)

36.   (Cancelled)

37.   Previously Presented) A gateway according to Claim 18, wherein the

transport level window size is the TCP window size field of the packet.

38.   (Cancelled)

39.   (Cancelled)

40.   (Cancelled)

41.   (Cancelled)

42.   (Cancelled)

43.   (Cancelled)

44.   (Cancelled)

45.   (Cancelled)

46.   (Cancelled)

47.   (Currently Amended) A gateway for use in a system wherein a first

apparatus, said gateway, and a second apparatus are in a TCP/IP network, each

of the first apparatus, said gateway, and the second apparatus having different IP

addresses, said gateway comprising:

        packet receiving means for receiving a packet addressed at the IP level

from the first apparatus to the second apparatus;

        service plan determining means for determining a level of service

subscribed to by a user of the first apparatus; and

        throttling means for throttling a user of the first apparatus by modifying the

value of the TCP window size field of the packet received by said packet

receiving means so as to change the value from a value present in that field in

the packet received by said packet receiving means in accordance with (1) the

level of service subscribed to by the user of the first apparatus and (2) bandwidth

usage associated with the user of the first apparatus,

        wherein the second apparatus receives the modified packet that has, in

its TCP window size field, a value different from the value present in that field

in the packet received by said packet receiving means,

wherein the packet received by said packet receiving means of said

gateway has, as its source IP address, the IP address of the first apparatus, and

has, as its destination IP address, the IP address of the second apparatus, ~~and~~

wherein the modified packet sent to the second apparatus has, as its

source IP address, the IP address of the first apparatus, and has, as its

destination IP address, the IP address of the second apparatus, and

wherein a memory is included in said gateway.

48.   (Previously Presented) A gateway according to Claim 47, wherein the

bandwidth usage is measured as an amount of data per unit of time.

49.   (Cancelled)

50.   (Cancelled)

51.   (Previously Presented) A gateway according to Claim 47, wherein the

bandwidth usage is expressed as an average throughput.

52.   (Previously Presented) A gateway according to Claim 47, wherein the

bandwidth usage is determined using a leaky bucket analysis.

53.   (Cancelled)

54.   (Cancelled)

55.   (Cancelled)

56.   (Cancelled)

57.   (Previously Presented) A gateway according to Claim 48, wherein said

throttling means modifies the TCP window size field of the packet.

58.   (Cancelled)

59.   (Cancelled)

60.   (Cancelled)

61.   (Cancelled)

Allowable Subject Matter

6.   Claims 17-18, 21-22, 26-28, 31-32, 37, 47-48, 51-52, and 57 are allowed.

7.   The following is an examiner's statement of reasons for allowance: The cited prior art fails to teach a throttling unit that is configured to throttle the user of the first apparatus by (a) modifying the value of the TCP window size field of the package so as to change the value from a value present in that field in the packet received by said packet receiving unit in accordance with (1) the level of service subscribed to the user of the first apparatus and (2) bandwidth usage associated with the user of the first apparatus, and (b) sending the modified packet to the second apparatus so that the second apparatus receives the so modified packet that has, in its TCP window size filed, a value different from the value present in that field in the packet received by said packet receiving unit in conjunction with all other limitations in the claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to NGHI V. TRAN whose telephone number is (571)272-

4067. The examiner can normally be reached on Monday-Thursday (9:30 am - 8:00

pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Follansbee/   Nghi V Tran
Supervisory Patent Examiner, Art Unit 2451   Examiner
                                                          Art Unit 2451